

ORIGINAL



BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE JOINT
APPLICATION OF SUN CITY WATER
COMPANY AND SUN CITY WEST
UTILITIES COMPANY FOR APPROVAL OF
CENTRAL ARIZONA PROJECT WATER
UTILITIZATION PLAN AND FOR AN
ACCOUNTING ORDER AUTHORIZING A
GROUNDWATER SAVINGS FEE AND
RECOVER OF DEFERRED CENTRAL
ARIZONA PROJECT EXPENSES.

DOCKET NO. W-01656A-98-0577
SW-02334A-98-0577

**CITIZENS UTILITIES COMPANY
CLOSING BRIEF**

Citizens Utilities Company ("Citizens"), the parent company of the
applicants in this case, hereby submits its brief.

I. HISTORY

A. Citizens' Acquisition of CAP Water Rights.

The Central Arizona Project ("CAP") is a complex water conveyance system,
comprised of canals, siphons and pumping stations, constructed by the U.S.
Bureau of Reclamation ("Bureau") and operated and maintained by the Central
Arizona Water Conservation District ("CAWCD"). It is 336 miles in length
extending from the Colorado River near Lake Havasu to just south of the San
Xavier Indian Reservation. The CAP was designed to deliver approximately 1.5
million acre-feet of surface water annually to central and southern Arizona,
primarily to replace mined groundwater.¹

Arizona Corporation Commission
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¹ This paragraph, Rossi Direct, p. 3, l. 20-27. Mined groundwater is groundwater pumped in
excess of "safe yield" levels. Safe yield occurs when a balance exists between the amount of
groundwater pumped from underground aquifers and the quantity of water that is naturally and
artificially recharged back into the same aquifer over time. Rossi Direct, p. 4, l. 2-6.

1 In 1971 the State of Arizona enacted legislation allowing the CAWCD to be
2 formed. This legislation also established the powers and obligations of the
3 CAWCD, including establishing the authority of CAWCD to collect revenues. On
4 December 15, 1972, the U.S. and the CAWCD entered into a contract for Delivery
5 of Water and Repayment of Costs of the Central Arizona Project ("Master
6 Repayment Agreement"). This Master Repayment Agreement established what
7 portion of the costs associated with CAP water are to be borne by the State of
8 Arizona through the CAWCD. Under its statutory authority, the CAWCD enters
9 into subcontracts with CAP-users for repayment of certain portions of the CAP-
10 related costs CAWCD incurs.²

11 In November 1984, Citizens completed an analysis of whether to become a
12 CAP subcontractor. The analysis was comprehensive in that it attempted to
13 outline all advantages and disadvantages associated with various CAP water
14 options and considered the interests of customers, developers, neighboring
15 communities, and shareholders. Based upon this analysis, Citizens decided to
16 contract for CAP water.³

17 Citizens initially entered into two CAP-water subcontracts, the first between
18 Sun City Water, the CAWCD, and the U.S. Bureau of Reclamation ("Bureau") and
19 the second between Agua Fria, the CAWCD, and the Bureau. The initial Sun City
20 Water subcontract, dated October 24, 1985, included a 15,835 acre-foot CAP
21 allocation. The Agua Fria subcontract, also dated October 24, 1985, included a
22 1,439 acre-foot CAP allocation. Citizens also holds a second Sun City Water
23 subcontract, dated July 10, 1998, covering an additional 380 acre-foot CAP
24 allocation. This second subcontract was obtained as a result of Sun City Water
25 purchasing the Town of Youngtown's ("Youngtown") municipal water system in
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29 ² This paragraph, Jones Direct, p. 5, l. 12-21.

³ This paragraph, Jones Direct, p. 6, l. 17- p. 7, l. 3.

1 February 1995. In total, Citizens has 17,654 acre-feet of CAP water under
2 subcontract.⁴

3 Citizens recently reassigned a portion of Sun City Water's CAP allocation to
4 Agua Fria and Sun City West. The initial allocation was based on the original
5 geographic areas intended to benefit from Sun City Water's CAP allocation,
6 including lands now located in Sun City West and Agua Fria. While the overall
7 area served by Citizens has remained constant, the boundaries of the individual
8 franchised areas have changed. Citizens studied projected water uses over the
9 next 35 years and concluded that 64% of the original allocation should be
10 attributed to Agua Fria, 22% to Sun City Water, and 14% to Sun City West.⁵

11 The redistribution resulted in 3,809 acre-feet of CAP allocation for Sun City
12 Water, 2,372 acre-feet for Sun City West and 11,093 acre-feet for Agua Fria. In
13 addition to the 3,809 acre-feet of the original Sun City Water subcontract, Sun
14 City Water also has the 380 acre-foot Youngtown allocation, bringing the total
15 CAP allocation for Sun City Water to 4,189 acre-feet. Thus, the aggregate
16 allocation assignable to Sun City Water and Sun City West totals 6,561 acre-feet.⁶
17 Total CAP water under subcontract still equals 17,654 acre-feet.

18 Since 1985, Citizens has been incurring and paying holding charges
19 (initially referred to by CAWCD as "subcontract charges" before 1993, and now as
20 "M&I capital charges") to CAWCD to retain the rights to use CAP water for
21 existing and future customers. In addition, Citizens assumed payment of the
22 holding charges under the Youngtown subcontract, starting with the June 1995
23 payment. To date, Citizens has not ordered or taken delivery of any CAP water
24 under its subcontracts.⁷

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28 ⁴ This paragraph, Rossi Direct, p. 4, l. 9-21 (updated to reflect responses to RUCO Data
Request 1.1 and SCTA Data Request 2.3).

29 ⁵ This paragraph, Rossi Direct, p. 5-7.

⁶ This paragraph, Rossi Direct, p. 7, l. 10-16.

⁷ This paragraph, Rossi Direct, p. 4, l. 23-p. 5, l. 6.

1 **B. Previous Commission Activity.**

2 On June 27, 1994, Sun City Water and Citizens' Agua Fria Division filed a
3 Joint Application requesting an accounting order authorizing deferral of CAP
4 holding charges to allow the companies an opportunity to request recovery of the
5 costs in future proceedings. In Decision No. 58750 (August 31, 1994), the
6 Commission granted our requested accounting treatment, beginning with CAP
7 water capital charges for 1995.⁸

8 On August 17, 1995, Agua Fria, Sun City Water, Sun City Sewer, Sun City
9 West Water, Sun City West Wastewater, and Tubac (collectively "Maricopa
10 W/WW") filed a Joint Application for rate relief ("Rate Case"). As a part of the
11 Joint Application, Maricopa W/WW requested current cost recovery of the
12 deferred and ongoing CAP holding charges in the form of a surcharge applicable
13 to the customers of Sun City Water, Sun City West Water, and Agua Fria. On
14 May 7, 1997, the Commission issued Decision No. 60172, which, among other
15 things, denied Citizens' request for a CAP water surcharge.⁹

16 In that case, the relative costs and benefits (both direct and indirect) of
17 CAP water were discussed in detail. In Decision 60172, the Commission provided
18 only two reasons why Citizens' request for cost recovery was denied. They were:
19 1) CAP water was not used and useful; and 2) Citizens did not have a definite
20 plan to use CAP water; therefore its ultimate use was uncertain and not a known
21 and measurable event.¹⁰

22 The following findings in Decision 60172 confirm that the Commission has
23 already determined that the acquisition and ultimate use of CAP water in the Sun
24 Cities is prudent and provides sufficient direct and indirect benefits to justify the
25 cost.

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29 ⁸ This paragraph, Jones Direct, p. 3, l. 19-24.

⁹ This paragraph, Jones Direct, p. 4, l. 1-8.

¹⁰ Decision 60172, p. 10, l. 11-13.

- 1) The demand of existing customers is contributing to the groundwater depletion of the aquifer, land subsidence, and other environmental damage.¹¹
- 2) The consequences of such excessive groundwater withdrawal include decreased water levels, diminished water quality, well failures, increased pumping costs, and more land subsidence.¹²
- 3) Citizens' decision to obtain CAP water was a prudent planning decision.¹³
- 4) Citizens contracted for CAP in order to meet the continuing groundwater requirements for its existing customers, and that, provided the CAP allocation will ultimately be used, the existing customers will benefit from the CAP allocation by contributing to the use of renewable sources of water that will be used in the Northwest Valley to prevent diminished water quality, well failures, and future additional land subsidence, and thereby protect their economic investment in the area.¹⁴
- 5) The Commission did not allow Citizens to collect a surcharge for CAP costs. Instead, subject to the condition that Citizens develop a plan and date of implementation by December 31, 2000, Citizens was allowed to defer CAP capital costs for future rate recovery when the CAP water is put to beneficial use for Citizens' ratepayers.¹⁵

These findings by the Commission establish that Commission has determined that the overall benefits of CAP water use exceed the costs. The only remaining issue that was left to be decided was which CAP-water-use plan to implement.

¹¹ Decision 60172, p. 9, l. 3-5.

¹² Decision 60172, p. 9, l. 5-7.

¹³ Decision 60172, p. 9, l. 10,11.

¹⁴ Decision 60172, p. 9, l. 20-23; p.10, l. 1-3.

¹⁵ Decision 60172, p. 10, l. 14-16.

1 **C. The CAP Task Force.**

2 To answer the question of how best to use CAP water, Citizens facilitated
3 the creation of the community-based CAP Task Force. Citizens retained an
4 experienced, independent, professional facilitator to oversee the public planning
5 process. The facilitator designed the public planning process, based on interviews
6 with community stakeholders. Citizens did not take part in the interviews.¹⁶

7 To create and implement a process best suited for all of the parties
8 involved, the facilitator interviewed more than a dozen community leaders in Sun
9 City, Sun City West and Youngtown, including representatives of those parties
10 that intervened in the Companies' most recent rate case before the Arizona
11 Corporation Commission. Based on such interviews, Citizens sent letters to the
12 leaders of the organizations listed below, explaining the Task Force process and
13 inviting each group to assign two individuals to represent their organization on
14 the Task Force.

- 15 • Recreation Centers of Sun City
- 16 • Sun City Condominium Owners Association
- 17 • Sun City Homeowners Association
- 18 • Sun City Taxpayers Association
- 19 • Property Owners and Residents Association
- 20 • Recreation Centers of Sun City West

21 One of the representatives from each group was to be a current board member,
22 while the other representative was required to be knowledgeable of water
23 issues.¹⁷

24 Citizens was also permitted to appoint two members to the Task Force (Mr.
25 Jones and Ms. Rossi). The Town of Youngtown was asked to provide one
26 representative. Finally, based on recommendations from those interviewed by
27 the facilitator, four at-large members were selected to represent the general
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29 ¹⁶ This paragraph, Rossi Direct, p. 9, l. 11-22.

¹⁷ This paragraph, Rossi Direct, p. 10, l. 10-27.

1 public. In total, the CAP Task Force was comprised of 19 individuals,
2 representing a broad range of stakeholder interests.¹⁸

3 The expertise and enthusiasm of the Task Force members is noteworthy.
4 Included were doctors, lawyers, engineers, and accountants. One of the Task
5 Force members was the assistant project manager for the CAP from 1977 to
6 1985. Another member was a lawyer highly experienced in water law. Finally,
7 several Task Force members currently serve as chairmen of their respective
8 organization's water committees.¹⁹

9 The facilitator treated Citizens' views no differently than those of any other
10 Task Force member. Citizens wanted the Task Force to act as independently and
11 objectively as possible, and emphasized that Citizens would accept whatever
12 recommendation was eventually made by the Task Force, including
13 relinquishment of the CAP allocation, if that was the consensus reached.²⁰

14 The facilitator designed a systematic four-step planning process to achieve
15 a consensus decision:

- 16 • Become educated and informed on all relevant issues;
- 17 • Develop criteria that will be used to generate and evaluate CAP water-
18 use options;
- 19 • Develop options and understand related costs; and
- 20 • Evaluate options and recommend a preferred plan.

21 The facilitator's process recommendations were approved by the Task Force.²¹

22 One of the Task Force's initial challenges was to develop a mission
23 statement to guide the Task Force during its deliberations. At its first meeting,
24 the Task Force unanimously—including SCTA's representatives--agreed on the
25 following mission statement:

28 ¹⁸ This paragraph, Rossi Direct, p. 11, l. 1-6.

29 ¹⁹ This paragraph, Rossi Direct, p. 11, l. 8-13.

²⁰ This paragraph, Rossi Direct, p. 10, l. 2-7.

²¹ This paragraph, Rossi Direct, p. 12, l. 2-8.

1 The underlying principle of this cooperative public planning process is
2 that CAP water is needed to maintain the quality of life in Sun City,
3 Sun City West and Youngtown. The mission of the Task Force is to
4 develop consensus on the best plan for the use of CAP water that
5 meets the Arizona Department of Water Resources guidelines to
6 achieve "safe yield", and that will be supported and paid for by the
7 customers of Sun City Water Company and Sun City West Utilities
8 Company.²²

9 To assist the Task Force in evaluating the CAP water-use options and
10 relinquishment against selection criteria, the facilitator employed a computerized
11 technology called CoNexus that allowed individual Task Force members to input
12 his or her preferences simultaneously and to view the combined results
13 immediately. The purpose of the computerized evaluation was to provide the
14 Task Force with an objective tool to determine the relative importance of
15 numerous criteria and for evaluating numerous options against those criteria.
16 The computerized evaluation process allowed Task Force members to quickly
17 identify areas where there were differing opinions or less than a clear
18 understanding of issues. Once those areas were identified, the Task Force
19 became more focused and discussed the subject criterion or option at length in
20 an effort to improve overall understanding.²³

21 The CAP Task Force used a number of means to solicit views and receive
22 input from the residents of Sun City, Sun City West and Youngtown, including
23 advertisements, press releases, bill inserts, board and personal communication,
24 public comment periods and community open houses. The Task Force prepared
25 and ran regular advertisements in the *Daily News Sun*, the *Wester* and the *Sun*
26 *Cities Independent*. In addition to a three-column by ten-inch advertisement
27 announcing the formation of the CAP Task Force, all meetings were announced in
28 two-column by five-inch advertisements in the *Daily News Sun*. Additional
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²² Task Force Report, p. 4.

²³ This paragraph, Rossi Direct, p. 12, l. 9-22.

1 advertising publicized milestone events like community open houses and the Task
2 Force's final recommendations.²⁴

3 In addition to newspaper advertisements, the Task Force issued press
4 releases and provided Citizens bill inserts to distribute to its customers. Task
5 Force members also regularly briefed their respective boards and solicited public
6 comments on the Task Force proceedings at regular board meetings. Task Force
7 members also accepted direct, personal communication from individual residents
8 through phone calls, facsimile messages, e-mails and personal visits.²⁵

9 The agenda for each Task Force meeting included two periods for audience
10 participation. During these periods, members of the audience were encouraged
11 to comment or to ask questions of Task Force members or technical experts
12 attending the meetings. Such comments were recorded in the meeting notes for
13 each Task Force meeting. Members of the public attending the May 12, 1998,
14 meeting were allowed to participate in the weighting of the evaluation criteria
15 using the CoNexus computerized evaluation process.²⁶

16 Before arriving at its final recommendation, the Task Force conducted two
17 open houses. Before conducting the open houses, the Task Force ran three
18 three-quarter page advertisements publicizing the open houses, explaining the
19 water-use options and the evaluation criteria. One was held in Sun City and the
20 other in Sun City West. They were well attended, with approximately 180 people
21 present at both sessions. Each participant was asked to complete a questionnaire
22 addressing a variety of questions, including whether the allocation should be
23 retained or relinquished. More than 100 people responded to the questionnaire.
24 Of those responding, only five favored relinquishing the allocation. The
25 questionnaire responses are summarized in Appendix N to the CAP Task Force
26 Report.²⁷

28 ²⁴ This paragraph, Rossi Direct, p. 13, l. 3-18.

29 ²⁵ This paragraph, Rossi Direct, p. 13, l. 20-25.

²⁶ This paragraph, Rossi Direct, p. 14, l. 1-8.

²⁷ This paragraph, Rossi Direct, p. 14, l. 10-18.

1 Reporters from all three local papers, the *Daily News Sun*, the *Sun Cities*
2 *Independent* and the *Wester*, attended virtually every Task Force meeting and
3 prepared numerous newspaper articles describing the actions of the Task Force.
4 Additionally, local papers published a number of letters to the editors and guest
5 editorials on the CAP issue. The *Daily News Sun* took an editorial position on the
6 use of CAP water and independently conducted a phone-in survey asking whether
7 residents thought the CAP allocation should be retained. All 130 survey
8 participants demanded that CAP water be retained.²⁸

9 The Task Force met on May 19, 1998, to reach its final decision and
10 recommendation. Its mission statement was still unchanged:

11 The underlying principle of this cooperative public planning process is
12 that CAP water is needed to maintain the quality of life in Sun City,
13 Sun City West and Youngtown. The mission of the Task Force is to
14 develop consensus on the best plan for the use of CAP water that
15 meets the Arizona Department of Water Resources guidelines to
16 achieve "safe yield", and that will be supported and paid for by the
17 customers of Sun City Water Company and Sun City West Utilities
18 Company.²⁹

19 After considering the Mission Statement, the technical information that had been
20 presented, the feedback from the open houses, and the results of the
21 computerized evaluation, the Task Force recommended a combination of options
22 that included both a long-term and short-term solution. Termed the "Sun
23 Cities/Youngtown Groundwater Savings Project," the Task Force recommended,
24 as the long-term solution, that CAP water be delivered to the Sun Cities through a
25 non-potable pipeline. The CAP water would then be used to irrigate golf courses
26 that have historically pumped groundwater. The net result is that every gallon of
27 groundwater that is no longer pumped by the golf courses would be preserved for
28 delivery as drinking water to the customers in the Sun Cities. This long-term
29 solution cannot be completed until 2003. As a short-term solution, the Task

²⁸ This paragraph, Rossi Direct, p. 14, l. 22 - p. 15, l. 3.
²⁹ Task Force Report, p. 4 (emphasis added).

1 Force recommended that Citizens deliver CAP water to the existing Maricopa
2 Water District Groundwater Saving Project or, if capacity is unavailable, recharge
3 the CAP water at the CAWCD's Agua Fria Recharge Project, once that project
4 becomes operational in 1999.³⁰

5 After the Task Force decided its preferred option, the facilitator prepared an
6 initial draft of the Task Force report, with assistance from Citizens. The initial
7 draft was provided to the Task Force members for editing, comments and
8 recommendations. Task Force members provided numerous comments. Virtually
9 all of the suggested changes made by the Task Force members were incorporated
10 into a second draft. The second draft with an appendix was then issued to the
11 Task Force. The Task Force ran four full-page advertisements, describing the
12 Task Force process and recommendations and again soliciting comments. As a
13 result, additional changes were made. The final report was completed and
14 submitted with Citizens' application in this docket.³¹

16 **II. SUMMARY OF FILING**

17 **A. Description of Project.**³²

18 As set forth in Citizens' application, to implement the Task Force's
19 recommendations, Citizens will either assign existing staff or hire a new employee
20 to manage the planning, design, and construction of the Groundwater Savings
21 Project. The project, as currently planned, will include an estimated 46,000-foot
22 transmission line. The project will include storage reservoirs currently estimated
23 at 3.9 million gallons and irrigation booster pumps with an estimated capacity of
24 10,800 gallons per minute to meet peak demands. The project will also include a
25 non-potable delivery system in the Sun City area.

28 ³⁰ This paragraph, Rossi Direct, p. 15, l. 7-22.

29 ³¹ This paragraph, Rossi Direct, p. 15, l. 25 - p. 16, l. 4.

³² See, generally, Application p. 6-11.

1 The capital cost for the Groundwater Savings Project is currently estimated
2 at approximately \$15 million. Annual operating and maintenance costs for the
3 project are estimated at approximately \$400,000. Annual water sales to golf
4 courses are estimated at \$221,000, for a net annual cost of approximately
5 \$179,000. Once the project is approved by the Commission, Citizens will design
6 the project to a more precise level, consistent with standard engineering
7 practices, further refining the estimated costs.

8 This project will require extensive permitting including water storage
9 permits and recovery well permits from the ADWR. If, as expected, the pipeline
10 crosses a waterway of the United States, the project will require certain federal
11 permits, such as a § 404 permit, as required by the National Environmental Policy
12 Act. In addition to acquiring these permits, Citizens will also need to execute
13 long-term contracts with the Recreation Centers of Sun City and Sun City West
14 ("Recreation Centers"), by which the Recreation Centers will purchase the CAP
15 water they will use for irrigation. The Recreation Centers have already passed
16 resolutions demonstrating their intent to enter into these contracts.³³ Once the
17 Commission approves the project and before construction, Citizens will acquire
18 these permits and execute the appropriate agreements with the Recreation
19 Centers.

20 The Task Force recommended an interim solution until the Groundwater
21 Savings Project can be completed. Until the project is completed the Task Force
22 recommends that Citizens deliver CAP water to the existing Maricopa Water
23 District ("MWD") groundwater savings project or, if the MWD groundwater
24 savings project is not available, to the CAWCD Agua Fria Recharge Project. Using
25 the MWD groundwater savings project, CAP water would be delivered through an
26 existing distribution system to irrigate farms located in MWD's service area that
27 have historically used groundwater. For every acre-foot of groundwater not
28 pumped by MWD farmers, Sun City Water and Sun City West will be legally
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³³ Attached to Hubbs Rebuttal.

1 entitled to recover that water through wells to meet existing demands in Sun City
2 Water and Sun City West. Using the CAWCD Recharge Project, which should be
3 completed in 2000, Citizens would lease recharge capacity and water would then
4 be conveyed from the CAP canal to the recharge facility by gravity through the
5 channel of the Agua Fria River. Recharged CAP water would be legally recovered
6 through existing wells in Sun City and Sun City West.

7 The annual costs associated with the MWD groundwater savings project,
8 based on the capital and energy costs associated with transporting CAP water are
9 already known and measurable and clearly defined in Schedule CWD-4 to Mr.
10 Dablestein's rebuttal testimony. The total cost to deliver CAP water to MWD's
11 groundwater savings project in 2000 is \$563,246. In 2001, this cost will increase
12 to \$636,417 because the capital charge is expected to escalate to \$54 per acre-
13 foot and the delivery charge is expected to increase to \$59. The year 2001 cost
14 could vary slightly when the CAP establishes the actual capital and delivery
15 charges for calendar year 2001. Capital and delivery charges can change from
16 year to year based on repayment obligations to the U.S. and the cost of
17 transporting CAP water from the Colorado River to central Arizona.

18 To implement the interim recommendation, Citizens obtained appropriate
19 water storage and is in the process of filing recovery-well permits. Additionally,
20 Citizens and MWD are executing an agreement to partner in the MWD
21 groundwater savings project. Once the Commission approves the interim plan,
22 Citizens will store and recover Sun City Water's and Sun City West's Water entire
23 CAP allocation (6,561 acre-feet) in 2000.³⁴

24 **B. Requested Relief.**

25 Although Citizens has begun preliminary planning and permitting processes
26 to implement CAP water use, an order from this Commission approving the CAP
27 water use plan is necessary before Citizens can invest the necessary capital. It is
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29 ³⁴ This paragraph has been updated from the Application to reflect the current status of events.

1 Citizens' position that it is appropriate and reasonable for the CAP water costs to
2 be paid for by the customers who benefit from the water. If Citizens does not
3 obtain adequate financial relief to recover the CAP water costs, Citizens will be
4 unable to justify the payment of additional CAP charges, which would force
5 Citizens to transfer or relinquish its CAP allocation.

6 The current effective service rates for Sun City Water and Sun City West do
7 not include any CAP-related costs. An order authorizing the recovery of the
8 deferred CAP holding charges and the recovery of a Groundwater Savings Fee is
9 necessary to retain the CAP allocation without causing immediate and significant
10 financial harm to the Citizens companies.³⁵ The proposed Groundwater Savings
11 Fee for each company consists of two calculations:

- 12 1. the recovery of previous years deferred costs; and
- 13 2. the recovery of the cost associated with payment of CAP holding and
14 delivery charges, less an offset that will result from participation in
15 the MWD groundwater savings project.

16 The recovery of the deferred investment allowed under the accounting
17 order approved in Decision No. 58750 would be fixed over a 42-month period.
18 The proposed deferral recovery fee incorporates an 8.73% return on a going-
19 forward basis (the rate-of-return approved in Decision No. 60172) on the
20 unamortized monthly balance of the investment. The fee has two different
21 classifications: residential will be billed at a flat rate (per household); and
22 commercial will be billed based on usage (per 1000 gallons or "mgal").

23 Citizens proposes a true-up at the end of the 42 month period, when the
24 Groundwater Saving Project is scheduled to commence. If Citizens has recovered
25 an excess of funds from its customers, that balance will be returned to customers
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27

28 ³⁵ Citizens initially characterized the requested order as an accounting order. This was not
29 technically accurate, because is actually seeking to put rates in place to recover cumulative and
ongoing CAP water costs effective at the time the Commission issues its order.

1 via a one-time refund. However, if Citizens has not recovered sufficient funds
2 from its customers, Citizens will assume responsibility for the under-recovery.

3 The proposed monthly fees to collect the deferral are as follows:³⁶

4
5 **Sun City Water**

6 Residential per Household	\$0.5502
7 Commercial, Public Authority & Irrigation per mgal	\$0.0542

8 **Sun City West**

9 Residential per Household	\$0.5970
Commercial per mgal	\$0.0709

10
11 Should unforeseen circumstances arise after the Commission approves the
12 Groundwater Savings Project, and Citizens finds that it must instead relinquish or
13 transfer any part of its CAP allocations, Citizens will refund any associated fees
14 that were collected.

15 The recovery of ongoing annual holding and delivery charges paid each
16 year to CAP will be recovered as a Groundwater Savings Fee. The fee has two
17 different classifications: residential will be billed at a flat rate (per household);
18 and commercial will be billed based on usage (per mgal). In the first year of
19 implementation the fee will be calculated based on the 2000 CAP holding and
20 delivery charges, as approved by the CAP Board, and converted to residential and
21 commercial rates, using the forecasted year 2000 number of households and
22 commercial volumes. In subsequent years, the fee will be determined using the
23 difference between the actual amount of fees collected in the previous year, and
24 the sum of the upcoming and the previous year's CAP holding and delivery
25 charges. The fee will then be converted to residential and commercial rates using
26 the forecasted number of households and commercial volumes for the
27 subsequent year.

28
29 ³⁶ The fees in this section have been updated to reflect the amounts contained in Dabelstein
Rebuttal, p. 5-6.

1 The proposed monthly fees to collect the annual CAP holding and delivery
2 charges are as follows:

3 **Sun City Water**

4 Residential per Household \$0.8016
5 Commercial, Public Authority & \$0.0790
6 Irrigation per mgal

7 **Sun City West**

8 Residential per Household \$0.8666
9 Commercial per mgal \$0.1029

10 The **combined monthly bill impact** of the combined Deferred Costs and
Groundwater Savings Fees are as follows:

11 **Sun City Water**

12 Residential per bill \$1.35
13 Commercial, Public Authority & \$8.39
14 Irrigation (63 mgal)

15 **Sun City West**

16 Residential per bill \$ 1.46
17 Commercial, Public Authority & \$10.95
18 Irrigation (63 mgal)

19 **III. ISSUES**

20 **A. The CAP Task Force Approved The Groundwater Savings Plan
21 After A Thorough, Independent, Community-Based Process.**

22 The Sun City Taxpayers Association claims that Citizens controlled the CAP
23 Task Force and that the Task Force was not community-based.³⁷ All the evidence
is to the contrary.

24 In Section I(c), above, Citizens described in detail how the Task Force was
25 developed through a facilitator, its thorough decision-making process, and above-
26 all, its steadfast independence. Citizens need not repeat this discussion here.
27 Further, the testimony of the Task Force and the public comments at the hearing
28 made these points more forcefully than Citizens ever could. The Task Force was
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³⁷ Charlesworth Surrebuttal, pp. 3-4.

1 its own entity, beholden to no one, and determined to act responsibly. It would
2 have been easy to defer this problem to future generations, but the communities
3 recognized that they have contributed to the groundwater problems, determined
4 that they would accept responsibility, and have taken the first giant steps toward
5 a long-term solution.

6 One additional point: If Citizens could have controlled the outcome of the
7 Task Force, the final recommendation would likely not have deviated from
8 Citizens' proposal in the 1995 rate case: storage of CAP water at CAP's Agua Fria
9 Recharge Project. Despite Citizens' initial preference for the Agua Fria Recharge
10 Project, Citizens was prepared to live with any outcome whether that be Citizens'
11 preferred outcome, a groundwater savings project with golf courses, or even
12 relinquishment. Citizens was committed to allowing the public-planning process
13 to work without controls.³⁸

14 **B. The Task Force Interim Plan Satisfies The Used-And-Useful**
15 **Standard.**

16 Much of the Task Force's efforts focused on determining the preferred long-
17 term water-use solution. But the Task Force also focused on an interim use for
18 Citizens' CAP water allocation. "[T]he Task Force realized that an interim solution
19 was required to resolve the issue of CAP water being 'used and useful.'"³⁹ The
20 interim solution selected by the Task Force involves groundwater recharge by
21 Citizens at other locations.

22
23 Until the golf course project is completed, the Task Force
24 recommended that Citizens recharge that CAP water at the existing
25 MWD Groundwater Savings Project or, if not available, at the CAWCD
26 Agua Fria Recharge Project, once that project is operational in 1999."⁴⁰

27 The Commission Staff independently reviewed the Task Force's interim plan
28 to see if it would be used and useful. The Staff concluded unequivocally: "Staff

38 This paragraph, Rossi Rejoinder, p. 5-6.

39 Task Force Report, p. 31.

40 Task Force Report, p. 31-32.

1 Engineering would concur that the interim solution would resolve the 'used and
2 useful' criteria when CAP water is put to use."⁴¹

3 Citizens has provided a bona-fide plan to use CAP water that is used and
4 useful. Further, the costs of the interim solution are known and measurable.⁴²
5 Accordingly, all the requirements of Decision No. 60172 have been satisfied and
6 the Commission should approve rate recovery as more fully set forth above.

7 SCTA maintains that using CAP water in the Sun Cities can only be justified
8 by proving that the demonstrable direct benefits of the selected CAP plan to the
9 Sun Cities are in excess of the costs. This is not the appropriate standard. As
10 more fully discussed above,⁴³ the relative costs and benefits (both direct and
11 indirect) of CAP water were discussed in detail in Citizens' last rate case. In
12 Decision 60172, the Commission provided only two reasons why Citizens' request
13 for cost recovery was denied. They were 1) CAP water was not used and useful;
14 and 2) Citizens did not have a definite plan to use CAP water; therefore its
15 ultimate use was uncertain and not a known and measurable event.

16 Clearly, the Commission determined that the overall benefits of CAP water
17 use exceed its costs. Otherwise, the Commission would have rejected the use of
18 CAP water outright, or deferred the entire issue to a later proceeding and
19 required Citizens to demonstrate that benefits exceeded costs. Instead, the only
20 remaining issue was which CAP water-use plan to implement to allow the water
21 to be used and useful. Accordingly, Citizens was required to develop a plan and
22 date of implementation by December 31, 2000, and, subject to this condition,
23 allowed to defer CAP capital costs for future rate recovery when the CAP water is
24 put to beneficial use for Citizens' ratepayers.⁴⁴

25 CAP water is a community resource, requiring the community to be deeply
26 involved in the decision-making process. Further, because there is no single
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28 ⁴¹ Scott Direct, p. 5, l. 14-15.

29 ⁴² Schedules 1-4 to Dablestein Rebuttal.

⁴³ Section I(b), above.

⁴⁴ Decision 60172, p. 10, l. 14-16.

1 correct plan for using CAP water, selecting the correct option for CAP-water use
2 requires the community to weigh the costs of the available options against the
3 community's unique assessment of the resulting benefits. The Commission had
4 concluded in Decision No. 60172 that use of CAP water is beneficial. It was then
5 up to the communities through the Task Force, to determine which option would
6 be most beneficial, or if they disagreed with the Commission, to even recommend
7 that Citizens relinquish its CAP-water allocation.

8 The CAP Task Force weighed the costs of the available options against the
9 communities' unique assessment of the resulting benefits. The result of its
10 evaluation is well documented in the Final Report. The CAP Task Force
11 independently developed the criteria used to evaluate the options. Using
12 sophisticated computer techniques and public input, the CAP Task Force
13 prioritized the criteria. Finally, each project was evaluated against the criteria.
14 The CAP Task Force's recommended plan is the plan that the communities of Sun
15 City, Sun City West, and Youngtown believe provides them the most benefits.

16 The SCTA maintains that the costs of using CAP water, which provide
17 benefits of a regional nature, should be borne by the entire region.⁴⁵ SCTA
18 demonstrates a fundamental misunderstanding of the intended role of CAP water
19 in the local communities.

20 The issue of allocation of the contract costs associated with CAP water has
21 been decided by the United States and the State of Arizona. In 1971 the State of
22 Arizona enacted legislation allowing the Central Arizona Water Conservation
23 District ("CAWCD") to be formed. This legislation also established the powers and
24 obligations of the CAWCD, including establishing the authority of CAWCD to
25 collect revenues. On December 15, 1972, the U.S. and the CAWCD entered into
26 a contract for Delivery of Water and Repayment of Costs of the Central Arizona
27 Project (Master Repayment Agreement). This Master Repayment Agreement
28

29 ⁴⁵ SCTA is never clear about which region it means. Is it the Northwest Valley, Maricopa
County, or all of the region served by the CAP?

1 establishes what portion of the costs associated with CAP water are to be borne
2 by the State of Arizona through the CAWCD.⁴⁶

3 Under its statutory authority, the CAWCD entered into subcontracts with
4 Citizens for repayment of certain portions of the CAP related costs CAWCD incurs.
5 The actual obligation of Citizens is set annually by the Board of the CAWCD when
6 it issues its annual pricing schedule. When establishing its pricing, the Board
7 establishes the balance between regional revenue sources, such as property tax
8 assessments, and local revenue sources, such as subcontractor payment
9 obligations. Once the publicly elected Board of CAWCD establishes Citizens'
10 obligation, Citizens (and ultimately its customers) must then pay the appropriate
11 fair share. Just as Citizens and its customers are not required to reimburse
12 surrounding communities for regional benefits derived from CAP water used
13 outside of Citizens' service territory, other entities that receive a regional benefit
14 from Citizens' use of CAP water do not have to reimburse Citizens for these
15 benefits.⁴⁷

16 The same principles apply to costs associated with the construction and
17 operation of any CAP project implemented by Citizens for Sun City or Sun City
18 West. The amount of regional versus direct benefit is irrelevant. Whatever the
19 project, and whatever the perceived split between regional and direct benefits,
20 the only entities required to pay the costs are, in this case, Citizens and its
21 customers. There simply is no option to require any entity, which may receive an
22 incidental benefit from a project to pay for receiving that benefit.

23 The SCTA characterizes Citizens' November 1984 analysis of CAP options as
24 relying upon different factors than the current position of Citizens and as
25 providing evidence that Citizens contracted for CAP water only to protect its
26 shareholders.⁴⁸ Specifically, Ms. Charlesworth depicted Citizens as concerned
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28 ⁴⁶ This paragraph, Jones Rebuttal, p. 5, l. 10-21.

29 ⁴⁷ This paragraph, Jones Rebuttal, p. 5, l. 21 - p. 6, l. 6.

⁴⁸ Charlesworth Direct, pp. 3-4 (referring to Attachement MEC-1, a 1984 report prepared by Citizens Utilities).

1 only with protecting shareholder interests.⁴⁹ This testimony misrepresents the
2 analysis conducted by David Chardavoyne, then Vice-President of the Citizens'
3 Water Sector.

4 In fact, as even a perfunctory reading demonstrates, the analysis is
5 comprehensive in that it attempts to outline all advantages and disadvantages
6 associated with various CAP water options. The memo appropriately considers
7 customer, developer, neighboring community, and shareholder interests.
8 Citizens properly considered all interested parties before making a decision to
9 contract for CAP water.

10 Specifically, the analysis shows that acceptance of all or part of the
11 allocation presents a risk to shareholders, because no recovery mechanism was
12 in place in 1984. Mr. Chardavoyne's only mention of shareholder risk being
13 lessened is under the "rejection of allocation" alternative. In other words, if
14 Citizens wanted to reduce shareholder risk in 1984, then Citizens would have
15 elected not to enter into a CAP subcontract. Additionally, the Chardavoyne
16 analysis specifically mentions (three times) concerns about the loss of the
17 groundwater supply and the impact that loss would have on customers, including
18 diminished existence for customers, enactment of stringent water conservation
19 measures and no alternative supplies.

20 Most importantly, the SCTA is attempting to litigate an issue that the
21 Commission has already decided. Commission Decision 60172 already found that
22 Citizens contracted for CAP water to satisfy the needs of both its current and
23 future customers.

24 We find . . . that the Company contracted for CAP water in order to
25 meet the continuing groundwater requirements for its existing
26 customers as well as help it provide sufficient water to service all of its
27 service areas at ultimate development.⁵⁰
28

29 ⁴⁹ Charlesworth Direct, p. 4, l. 9-10.
⁵⁰ Decision No. 60172, p. 9, l. 20.

1 At the hearing, SCTA continued to challenge Commission Decision No.
2 60172, by now opining that Citizens could have used CAP water on golf courses
3 as much as ten years ago.⁵¹ This conclusion was purportedly based upon Exhibit
4 SCTA-5, a Department of Water Resources case involving Cave Creek Water
5 Company. Accordingly, by SCTA's logic, Citizens has not been prudent in its
6 stewardship of CAP water.

7 Three responses dispose of this argument. First, the Commission already
8 has found that Citizens stewardship of CAP water was prudent. Second,
9 assuming for argument's sake that prudence could still be litigated, the point is
10 moot. Citizens is not seeking any return of the carrying costs for the CAP water,
11 only recovery of the actual costs of the water (together with a prospective return
12 on the unamortized balance) once the Commission approves the Task Force Plan.
13 SCTA's argument might be relevant if Citizens were seeking a return over the last
14 several years. Because it is not, SCTA's argument is irrelevant.

15 Finally, SCTA's "precedent" is anything but. Company witness Rossi, the
16 only witness with any actual expertise on the subject discussed the case:

17 Q. What is an administrative review?

18 A. An administrative review is simply an appeal of a conservation
19 requirement. You don't like the number you got and you have
20 reasons why you want it changed. You hope that through that
21 process the number will be increased.

22 Q. How do you know this?

23 A. I worked for the Department of Water Resources from 1987 to
24 1993. I managed the municipal conservation program during
25 that time period. As a part of that process I was responsible for
26 administering the administrative reviews for municipal
27 conservation program.

28 ⁵¹ This was a belated attempt to fine-tune Ms. Charlesworth's vague claim that Citizens
29 somehow sat on its hands for years by not finding a use for CAP water other than in the Sun
Cities. Charlesworth Direct, p. 7-8, Surrebuttal, p. 9. This allegation was thoroughly rebutted by
Citizens witnesses Jones and Rossi. Jones Rebuttal, p. 8-9; Rossi Rejoinder, p. 3-5.

1 Q. Are there conditions for obtaining an administrative review, or
2 will DWR grant one for just any purpose?

3 A. There are specific conditions under which an administrative
4 review will be granted. They're basically two areas. One, there
5 was an error in an assumption that was used to calculate your
6 conservation requirement; or two, there was extraordinary
7 circumstance.

8 Q. And again, returning to SCTA-5, which category did this fall into?

9 A. It fell under extraordinary circumstance.

10 Q. I realize you haven't had a lot of time to review this document,
11 but based on your review and your work experience, what were
12 the circumstances, the extraordinary circumstances that
13 underlied this document, underlay this document?

14 A. I have done a very, very cursory review, and I would be happy
15 to research it in more depth subsequent to this hearing, but in
16 my quick review, what I have determined or discovered is that,
17 number one, the golf course in question was partially being
18 served groundwater by the utility, and it was partially being
19 served by what was referred to as a general industrial use
20 permit. That is a groundwater withdrawal permit as a limited
21 term. The department awards those in very unusual
22 circumstances. I'm not going to go into the reasons why one is
23 offered up, it's just very, very unusual circumstances.

24 Secondly, the groundwater in the Cave Creek/Carefree basin was at
25 that time, and remains to be at this time, virtually depleted, and
26 groundwater is essentially no longer an option for this golf course.

27 Number three, Cave Creek committed to eventually replacing the
28 [untreated] CAP water with effluent. Those are the reasons that they
29 began [granted] the administrative review in this particular case.

...

30 Q. And does SCTA-5 provide us any guidance for the circumstances
31 surrounding Citizens' use of CAP water in the Sun Cities
32 communities?

33 A. No.

34 Q. Do you think that ADWR would have given Sun City Water
35 Company similar treatment if it had asked for it?

1 A. No, I do not believe that that would be the case, based on my
2 professional opinion and based on experiences conducting these
administrative reviews.⁵²

3 The Commission should disregard SCTA's attempt to interject non-
4 comparable cases, particularly when the issue -- prudence of Citizens' CAP
5 water usage -- has already been decided.

6 **C. Because The Used-And-Useful Standard Has Been Satisfied,**
7 **Citizens Is Entitled To A Return Of And On Its Investment.**

8 Several parties object to Citizens earning carrying charges on the
9 unamortized balance of deferred carrying charges. There are several compelling
10 reasons why carrying charges should be allowed.

11 First, we need to be clear on just what amounts upon which Citizens is
12 seeking a return. Citizens is not seeking any carrying charges for the time period
13 before the Commission begins the amortization, only prospectively from that
14 point forward. Total carrying charges are expected to equal \$108,250 over the
15 42-month period.⁵³

16 The requested \$108,250 in prospective carrying charges must be put in
17 perspective by a comparison to the carrying charges that Citizens has already
18 incurred and for which no recovery is sought. As indicated on Schedule CWD-1,⁵⁴
19 payments totaling \$160,706 (\$99,034 for Sun City and \$61,672 for Sun City
20 West) were made in connection with the CAP allocation before Citizens received
21 deferral accounting authority in Commission Decision No. 58750 in August 1994.
22 Even though the decision to acquire CAP water was subsequently found by the
23 Commission to have been prudent, because these payments preceded the
24 deferral accounting order, they were charged to expense and will never be
25 recoverable. Moreover, as summarized on Schedule CWD-5, by not having the
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29 ⁵² Transcript p. 305, l. 8 – p. 307, l. 8; p. 307, l. 19 – p. 308, l. 3.

⁵³ Dabelstein Rebuttal, p. 11, l. 10-12.

⁵⁴ Dabelstein Rebuttal.

1 authority to accrue carrying charges on the deferred CAP costs, Sun City and Sun
2 City West have forgone recognition of returns totaling \$140,922 and \$83,361,
3 respectively.

4 In the aggregate, unrecoverable CAP payments and forgone returns total
5 \$384,989. The \$108,257 in requested prospective carrying charges is less than
6 one-third of this amount. To deny returns prospectively would not only be
7 patently unfair, but also would continue to require Citizens' investors to bear the
8 entire cost of acquiring CAP water and holding it for the benefit of customers.⁵⁵

9 Commission precedent also supports Citizens' request. First, the
10 Commission has imposed upon Citizens the used-and-useful test that is typically
11 applied to justify cost recovery for plant assets. The costs of such investments
12 are not recoverable until they are used and useful in the provision of utility
13 service. However, during the interim period between the expenditure of funds
14 and the ultimate date upon which the used-and-useful test is met, such
15 investments are afforded a return. This occurs in the form of the Allowance for
16 Funds During Construction ("AFDC"). AFDC, in amounts equivalent to current
17 returns, both debt and equity, is capitalized and deferred as part of the book cost
18 of the respective asset and recovered in future rates as part of depreciation
19 expense. Previously accrued AFDC included in plant-in-service balances not yet
20 recovered in depreciation provisions, will continue to earn a current rate of return
21 through its inclusion in rate base. In this instance, neither Sun City nor Sun City
22 West has accrued any carrying charges (AFDC or otherwise) on the deferred CAP
23 costs. Since the same ratemaking standard that applies to plant assets has been
24 imposed upon our deferred CAP costs, it is only appropriate that the same cost
25 recovery opportunity, including a return on the unrecovered balance, be made
26 available as well. We are not seeking the retroactive accrual of carrying charges.
27 We merely request that the prospectively accrued carrying costs associated with
28 the significant expenditure of funds that the Commission has found to be prudent
29

⁵⁵ This paragraph, Dabelstein Rebuttal, p. 10, l. 22 - p. 11, l. 15.

1 and used and useful be recoverable from the customers they were intended to
2 benefit.⁵⁶

3 Second, similar circumstances should be treated in a consistent manner for
4 cost recovery and ratemaking purposes. In Decision No. 58360 issued in July
5 1993, the Commission ordered that carrying charges, computed at the cost of
6 capital, should be accrued on the balances of Demand-Side Management ("DSM")
7 expenditures made by Citizens' Arizona Electric Division. Such expenditures are
8 critical to the planning process that is intended to assure that Citizens will be able
9 to continue to supply sufficient quantities of electricity to its customers in the
10 future. The decision to acquire CAP water, already found by the Commission to
11 have been prudent, was also intended to assure a long-term supply, in this case
12 of water. For the same reason that carrying charges may be accrued on DSM
13 expenditures, Sun City and Sun City West should be allowed to reflect a rate of
14 return in the revenue requirement calculations that underlie our requested CAP
15 cost recovery rates.⁵⁷

16 Specific Commission precedent also supports allowing Citizens a return on
17 its unamortized CAP water balance. For example, in Decision No. 58120
18 (December 1992), an Arizona Water Company rate case, the Commission did
19 allow that company to include in its rate base deferred CAP capital payments
20 relating to the portion satisfying the used-and-useful test. The order notes that
21 RUCO did not challenge the inclusion of the deferred CAP costs in the rate base.
22 The order also explicitly recognized the time value of money by stating that
23 Arizona Water could accrue AFDC on the deferred balances, for which recovery
24 through rates had not yet been granted, if it chose to do so. The Commission
25 also allowed Chapparal Water Company similar treatment in Decision No. 57395
26 (May 1991).

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29 ⁵⁶ This paragraph, Dabelstein Rebuttal, p. 9, l. 12 – p. 10, l. 6.
⁵⁷ This paragraph, Dabelstein Rebuttal, p. 11, l. 8-20.

1 RUCO mischaracterizes Decision No. 61831, a Paradise Valley Water rate
2 case.⁵⁸ In that case, unlike Citizens, Paradise Valley Water had not disbursed any
3 funds associated with its CAP allocation at the time of its application.
4 Consequently, that company did not ask for any return. It would basically be
5 passing-through CAP capital costs as they were incurred.

6 Perhaps it was the Paradise Valley Water case that Staff was thinking about
7 when Mr. Fernandez characterized CAP cost recovery as a pass-through, which
8 should not be subject to a rate of return.⁵⁹ Under most pass-through
9 mechanisms, cost recovery occurs within a relatively short period of time after
10 the costs are incurred (monthly, quarterly, etc), thereby mitigating the effect of
11 not recovering the time value of money. This is not the case here. Citizens has
12 forgone any returns over the last six years. Recovery is requested over the 42
13 months following the issuance of an order approving the recovery. Denying any
14 return would ignore any time value of money.

15 Staff also seems to believe that Citizens is seeking recovery of forgone
16 returns over the time period before a Commission determination that the CAP
17 funds are used and useful.⁶⁰ As explained above, Citizens is not seeking this type
18 of recovery. Citizens only asks for prospective recovery of and on its investment
19 after the date of a Commission decision in this docket.

20 Staff's position is also inconsistent with the position it took in Citizens' last
21 rate case.⁶¹ In that case, Staff witness Randy Sable believed that Citizens should
22 even be able to receive an earnings component from the time of Citizens'
23 application until CAP water was put to beneficial use.⁶²

27 ⁵⁸ Diaz-Cortez Direct, p. 14, l. 7-9.

28 ⁵⁹ Fernandez Surrebuttal, p. 4, l. 22-24.

29 ⁶⁰ Fernandez Surrebuttal, p. 4, l. 26 - p. 5, l. 4.

⁶¹ Docket Nos. E-1032-95-417, U-2276-95-417, U-1656-95-417, and U-2334-95-417.

⁶² Staff Direct Testimony of Randall W. Sable, p. 44, l. 23-26; Staff Surrebuttal Testimony of Randall W. Sable, p. 15, l. 4-7.

1 **D. The Cap Task Force Rejected the Option Of Citizens**
2 **Relinquishing Its Cap Water Allocation.**

3 The CAP Task Force thoroughly evaluated and rejected the option of having
4 Citizens relinquish its CAP water allocation. In fact, the Task Force spent more
5 time hearing SCTA's presentations against CAP water, than it did on all the other
6 options combined.⁶³ Yet, after weighing both the evidence and the overwhelming
7 public support for using CAP water in some manner, the Task Force rebuffed the
8 relinquishment option. Even holding the resource, without using it was preferable
9 to relinquishment:

10 [T]he allocation is a public resource designed to allow water utilities to
11 reduce groundwater demand consistent with the State's Groundwater
12 Management Act. . . . [W]ithout CAP water, . . . customers would be
13 subject to future replenishment taxes and additional conservation
14 requirements that are even more stringent than existing, already
unattainable, requirements.⁶⁴

15 **E. Citizens Should Proceed With The Golf Course Recharge**
16 **Project, As Supported By The Brown And Caldwell Study.**

17 Given that relinquishment made no sense, the CAP Task Force retained
18 Phoenix engineering firm Brown and Caldwell to prepare a study for the CAP Task
19 Force of the costs associated with six options for using CAP water. Brown and
20 Caldwell's study is attached to the Task Force Report as Appendix J. The costs of
21 the various options, as determined by Brown and Caldwell, were then included
22 with the other weighed criteria that were used by the Task Force members to
23 select the best option.⁶⁵ Based upon these criteria, the Task Force recommended
24 Option 4, the Golf Course Recharge option⁶⁶ as the permanent solution.⁶⁷ This is
25 the option that is included in Citizens' application.

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28 ⁶³ Rossi Rebuttal, p.7, l. 7-8.

29 ⁶⁴ Task Force Report, p. 19.

⁶⁵ Task Force Report, p. 22-31.

⁶⁶ Also known as the Sun Cities/Youngtown Groundwater Savings Project.

⁶⁷ Task Force Report, p. 31-32.

1 Brown and Caldwell estimated the capital cost of the Golf Course Recharge
2 Option at just under \$15 million. This estimate is considered "conservative," in
3 the sense that the actual cost is unlikely to exceed this number.⁶⁸ At the request
4 of the Task Force, the reasonableness of the Brown and Caldwell estimate was
5 confirmed by Entranco, a separate independent engineering firm.⁶⁹

6 The SCTA sponsored the testimony of Dennis Hustead to review the Brown
7 and Caldwell estimate of the cost of the Golf Course Recharge Project. He
8 concluded that three general changes could possibly be made to the Project, that
9 could reduce the cost by approximately \$6 million:

- 10 • Elimination of a storage reservoir;
- 11 • Elimination of a pumping station; and
- 12 • Using existing Sun City West distribution facilities to use much of Sun
13 City's CAP allocation in Sun City West.⁷⁰

14 Citizens believes that the first two suggestions should be carefully
15 considered during the completion of a preliminary design. But it is important to
16 note that even if both suggestions are technically feasible; the total cost
17 reduction would only be about \$2 million.⁷¹ Most of Mr. Hustead's potential cost
18 reduction would result from using much of Sun City's CAP water allocation in Sun
19 City West. However, Sun City's CAP water allocation cannot be used in Sun City
20 West.

21 Mr. Akine demonstrated that regulatory constraints would prohibit use of
22 much of Sun City's CAP water in Sun City West.⁷² Further, he was concerned
23 whether Sun City West's 20-year old distribution system could even operate in
24 the manner suggested by Mr. Hustead.⁷³ Finally, and most importantly, the Task
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27 ⁶⁸ Scott Direct, p. 4, l. 16-18; Jones Rebuttal, p. 11, l. 19-27; Akine Rejoinder, p. 2, l. 19-24.

28 ⁶⁹ Statement of the CAP Task Force, Exhibit B.

29 ⁷⁰ Hustead Direct, p. 3-6.

⁷¹ Transcript, p. 284-285.

⁷² Akine Rebuttal, p. 5, l. 1-21.

⁷³ Akine Rebuttal, p. 5, l. 25-27.

1 Force believes that having Sun City West soak up Sun City's Cap water allocation
2 would violate the community benefit standard adopted by the Task Force.⁷⁴

3 Mr. Hustead also suggested that Citizens should evaluate whether to
4 proceed with a joint CAP water transmission project with Citizens' Agua Fria
5 Division.⁷⁵ There are at least two reasons why this is not a good idea. The first
6 is that Agua Fria will likely not need a CAP treatment plant before 2005.⁷⁶ The
7 Sun Cities' need for CAP water are more immediate. Second, Agua Fria is likely
8 to be able to use the MWD's Beardsley canal for water transportation, thereby
9 avoiding the need for any pipeline construction.⁷⁷ This issue will be more fully
10 addressed by Brown and Caldwell when it completes its Agua Fria Master Plan.⁷⁸

11 The Commission now has all the information it needs to approve Citizens
12 proceeding with the Golf Course Recharge Option. Citizens is not asking the
13 Commission to pre-approve any cost estimate. However, Citizens is unwilling to
14 spend any more money to begin preliminary design work until the Commission
15 finds the Golf Course Recharge Option to be acceptable.

16 Once the Commission approves the concept, Citizens will work with the
17 Task Force and other interested parties to complete a preliminary design, obtain
18 permits and right-of-ways, complete a final design, and ultimately construct the
19 project. Citizens will coordinate closely with the Commission's Engineering Staff.
20 Citizens will provide Staff with quarterly progress reports until the project is
21 completed. In addition, Citizens will make the following specific submittals to
22 Engineering Staff for review and approval:

- 23 1. Upon completion of the preliminary design, the final plan for the
24 project as evidenced by the preliminary design and an updated cost
25 estimate will be submitted.

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28 ⁷⁴ Transcript, p. 208-209.

⁷⁵ Hustead Direct, p. 6-7.

⁷⁶ Akine Rebuttal, p. 6, l. 23-26.

⁷⁷ Akine Rebuttal, p. 6, l. 26 - p. 7, l. 8.

⁷⁸ Akine Rebuttal, p. 6, l. 9-19.

2. Upon attaining all major permits, easements, right-of-ways, and completion of 50% design a final cost estimate will be submitted.
3. Upon receipt of final bids, the bid with a comparison to the final cost estimate will be submitted.

Finally, in some future rate case, Citizens will ask the Commission to approve the completed Project for inclusion in rate base.

F. Existing Customers Are Responsible For Groundwater Declines And Should Be Responsible For The CAP-Water Solution.

SCTA argues that Sun City was developed on the expectation that groundwater would be adequate for its needs; therefore it should not have to pay for CAP water.⁷⁹ This argument is wrong-headed and short-sighted for many reasons.

First, the SCTA does not speak for the residents of Sun City. SCTA's putative members are the same people that were already represented on the Task Force by the Recreation Centers of Sun City, the Sun City Homeowners Association, and the Sun City Condominium Owners Association. Each of these organizations vigorously supports the Task Force's recommendations. These two organizations are better suited to represent the community on the CAP issue than SCTA is, because SCTA's mission and responsibilities are too narrowly focused to consider environmental threats to the community.⁸⁰

Second, things change. We live in a society today that is much more conscious of its impact on our environment than were we in the late 1960s or early 1970s when Sun City was being developed. Further, since that era, the Valley has experience spectacular (and largely unforeseen) growth that has significantly stressed our environment. Air quality, although somewhat better in recent years, has declined. Summer night-time temperatures have risen. Most germane, as detailed in the Task Force Report, the quantity and quality of the

⁷⁹ Charlesworth Direct, p. 6-7.

⁸⁰ This paragraph, Rossi Rebuttal, p. 7, l. 15-20.

1 Valley's water supply, particularly in the West Valley has declined precipitously.⁸¹
2 Further, subsidence and earth fissures are becoming more and more common as
3 a result of continued groundwater mining.⁸² By SCTA's logic, SCTA members
4 should be exempted from higher gasoline taxes and car prices designed to clean
5 up our air. This makes as much sense as allowing SCTA members to avoid
6 paying for CAP water needed to alleviate groundwater problems.

7 Third, past expectations of Sun City residents are not relevant to resolving
8 today's groundwater declines. Given normal residential turnover, it is very
9 unlikely that many of the original Sun City residents from the early 1970s are still
10 occupying homes there today. Regardless of any expectations, the inescapable
11 fact remains that past and present Sun City residents bear their share of
12 responsibility for the current groundwater problems.

13 The Task Force accepted this responsibility and offered a solution:

14 [T]he Task Force recognized the one essential and inescapable fact that
15 the Retirement Communities (i.e. Sun City, Sun City West and
16 Youngtown) themselves are currently pumping substantially more in
17 acre-feet of water per year than natural recharge is replenishing. And
that overdraft is their responsibility.

18 If the Retirement Communities are to escape the worst effects of their
19 overdraft in groundwater pumping, then CAP water must be used in a
20 manner which clearly and directly reduces the current amount of
groundwater pumping.⁸³

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22 The Commission should endorse the far-sighted, comprehensive solution
23 offered by the Task-Force and reject the SCTA's short-sighted, parochial cavils.
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29 ⁸¹ Task Force Report, Appendices D-H.

⁸² Task Force Report, Appendix F.

⁸³ Statement of the CAP Task Force, p. 7, l. 5-11.

1 **G. Recovering CAP-Water Costs Through A Per-Household Charge**
2 **Is Consistent With Water Conservation, Principles of Cost**
3 **Causation And The Wishes Of The Community.**

4 The Task Force's rate recovery plan advocated recovery from residential
5 customers on a per-household charge.⁸⁴ RUCO recommends instead that CAP
6 charges be recovered from residential customers based upon incremental
7 consumption above a threshold amount.⁸⁵ Similarly, SCTA advocates that, if they
8 are deemed recoverable, CAP costs should be collected primarily from customers
9 entering the system, with any charge to existing customers based on water
10 used.⁸⁶ These recommendations are:

- 11 • against the wishes of the communities;
- 12 • based upon a faulty understanding of water conservation requirements;
13 and
- 14 • contrary to principles of cost causation.

15 The most important justification for Citizens' proposed rate design is that it
16 was desired by the members of the CAP Task Force, whose final report is the
17 underlying basis for our cost-recovery proposal. The Report is clear that CAP
18 costs should be recovered by a flat monthly charge per household instead of a
19 consumption-based billing approach.

20 [T]he Task Force was concerned about how the costs would ultimately
21 be distributed across the customer base. The Task Force was
22 concerned that the costs for using CAP water should be assessed on a
23 per household basis and not on consumption. CAP water should be
24 considered as the first water supply delivered to customers, roughly
25 the first 3,500 gallons, instead of making CAP water a portion of every
26 gallon delivered. If the CAP water is assessed based on consumption,
27 then the large water users will unfairly subsidize small water users
28 even though on a per household basis the demand is comparable.⁸⁷

29 ⁸⁴ See Section II(b), above.

⁸⁵ Diaz Cortez Direct, p. 15-18. Ms. Diaz Cortez would exempt from CAP water recovery all
consumption at or below 11,000 gal./mo. in Sun City and 15,000 gal./mo. in Sun City West.

⁸⁶ Charlesworth Direct, p. 8-9.

⁸⁷ Task Force Report, p. 14 (emphasis added).

1 The Task Force Report reiterated this preference:

2 Regarding the issue of distributing the costs across the customer base,
3 the Task Force recommended that commercial customers be billed on
4 consumption and that residential customers be billed on a per
5 household basis. By billing residential customers on a per household
6 basis, the individual condominium customer will pay the same amount
7 for CAP water as an individual single family residential customer.⁸⁸

8 RUCO's rate design is based on a fundamental misunderstanding of the
9 purpose of CAP water. ADWR considers groundwater as the last source of supply
10 used. Renewable sources, such as CAP water are considered as being consumed
11 first in the community. Once renewable sources have been exhausted, the
12 balance of the community's consumption is considered to be mined groundwater.
13 The ADWR's conservation requirements are designed to address this groundwater
14 usage. Therefore, rate design should encourage CAP water consumption and
15 then discourage groundwater consumption through increasing block rates. RUCO
16 would stand this on its head and put groundwater in the first consumption block
17 and discourage consumption of CAP water by implementing a volumetric
18 surcharge on incremental consumption.⁸⁹

19 Citizens witness Rossi further clarified RUCO's misunderstanding, which
20 appears to be an inapt linking of the need for CAP water to conservation needs:

21 As I understand the situation, RUCO believes that the reason we
22 need to use CAP water is because we've exceeded our GPCD
23 requirement. That is not the reason that we need to use CAP water.
24 We need to use CAP water because we are mining groundwater. It has
25 nothing to do with the conservation requirement at all. If we were 100
26 percent in compliance with our requirement, we were using exactly
27 what the requirement intended us to use, we would still need to use
28 the CAP water.⁹⁰

29 ⁸⁸ Task Force Report, p. 32 (emphasis added).

⁸⁹ This paragraph, Rossi Rejoinder, p. 12.

⁹⁰ Transcript, p. 310, l. 8-17.

1 Citizens conducted a bill-frequency analysis to determine who would be
2 burdened by most of the costs under RUCO's proposed rate design. The analysis
3 shows that 47% of commercial customers, primarily with meters one-inch or
4 greater, in Sun City and Sun City West combined, will pay 40% of the CAP charge
5 proposed by RUCO. However, these same customers used only 21% of the water
6 delivered to all customers. On the residential side, 17% of the residential
7 customers, again primarily those customers with meters one-inch or greater, will
8 pay 60% of the CAP charge proposed by RUCO. But these residential customers
9 used 44% of the water delivered to all customers. With residential and
10 commercial customers combined, 18% of all customers will pay for 100% of the
11 CAP charge proposed by RUCO. But these same customers used only 65% of the
12 water delivered to all customers.⁹¹

13 Put another way, under RUCO's proposed rate design, 82% of all customers
14 (53% of commercial customers and 82% of residential customers), all primarily
15 with meters less than one-inch, would avoid paying any CAP charges. The
16 analysis also reveals that these customers use 35% of the water delivered to all
17 customers.⁹²

18 There is another inequity inherent in the RUCO rate-design proposal:
19 condominium residents would pay a disproportionate share of CAP charges.
20 RUCO's placing all CAP charges only on residential customers above minimum
21 consumption levels, would mean that basically only residential customers with a
22 one-inch meter or greater would pay CAP charges. If you own a single-family
23 home with no homeowner affiliation, this is good news for you. If you live in a
24 condominium or duplex the news is not good. This is because most of these
25 homeowners although their individual consumptions are small, receive irrigation
26 water from homeowner association meters, which are greater than one-inch in
27 size.

28
29 ⁹¹ This paragraph, Rossi Rejoinder, p. 15-16.

⁹² *Id.*

1 To document this RUCO inequity, Citizens prepared a case study of units 31
2 and 32 in Sun City West. These two units make up billing cycle 330. This cycle
3 would be considered a high water use area by Sun City West standards. There
4 are 185 single family, individually metered, homes in units 31 and 32. In
5 addition to these 5/8 x 3/4 meters, there are 21 homeowner association ("HOA")
6 meters one-inch and greater that are used to irrigate the landscape in units 31
7 and 32.⁹³

8 These units were constructed in 1992, and according to the conservation
9 requirement, they are entitled to approximately 9,100 gallons per month. On
10 average these accounts use 4,322 gallons per month. As such, these customers
11 would seem to pay nothing for CAP water under RUCO's proposal. Based on the
12 Task Force's rate design, they would be assessed \$1.46 per household or \$3,241
13 collectively.⁹⁴

14 But in fact, this water use represents only indoor water use. The remainder
15 of the water is provided by the 21 HOA meters that annually used over 16
16 millions gallons of water to irrigate landscape surrounding the 185 homes. Under
17 RUCO's proposal, these HOA accounts collectively delivered roughly 13.3 million
18 gallons in excess of 2.7 million gallons allowed under RUCO's proposal. Based on
19 RUCO's proposed CAP charge, these accounts would be assessed \$5,356—65%
20 more than under the Task Force's proposal.⁹⁵

21 Collectively, Citizens delivers 24 million gallons of water during the year to
22 both the individual and HOA accounts in cycle 330. If the water delivered to the
23 HOA were instead delivered to the individual accounts, then each single-family
24 meter would average 10,800 gallons per month, which under RUCO's proposal
25 would mean they would pay nothing. Instead, simply because the irrigation
26 water is master metered, they will pay over \$5,000, which is significantly more
27

28
29 ⁹³ This paragraph, Rossi Rejoinder, p. 16-17.

⁹⁴ This paragraph, Rossi Rejoinder, p. 17, l. 7-12.

⁹⁵ This paragraph, Rossi Rejoinder, p. 17, l. 14-25.

1 than they would pay under the Task Force's groundwater savings fee.⁹⁶

2 Finally, the deferred CAP charges are capital charges designed to recover
3 the costs of constructing CAP facilities. These type of charges, together with on-
4 going CAP charges, will not vary at all based on the consumption in the Sun
5 Cities. RUCO's rate design would violate a fundamental rate-design principle by
6 recovering fixed costs through volumetric rates.⁹⁷

7 Costs should be allocated fairly across all types of homeowners and
8 customers. RUCO's rate design does not do this. The Task Force's rate design
9 fairly allocates costs and should be approved.

10 **H. Citizens Does Not Require Financing Approval From The**
11 **Commission.**

12 Staff has asked that by June 30, 2000, Citizens file a financing application
13 for approval of a plan to fund construction of the pipeline. There is no reason for
14 this requirement. First, a company the size of Citizens (or the announced
15 acquirer of its water properties - American Waterworks) will almost always
16 employ internally-generated funds to finance a project of this magnitude. This is
17 because even a \$15 million project is well within normal capital budgets.
18 Accordingly, no special financing will be needed. However, if cheaper funds are
19 available, Citizens will of course seek them out.

20 Second, Citizens is exempt from any Commission requirement for pre-
21 approval of financing, including the issuance of Industrial Development Revenue
22 Bonds. Appendix A to this Brief is a copy of a letter from Commission Counsel
23 Timothy Hogan confirming that the Commission does not regulate Citizens'
24 issuance of securities, because Citizens is a foreign public service corporation.

25 Nevertheless, at the time it files the detailed preliminary engineering
26 design; Citizens is willing to provide to Commission Staff, on an informational
27 basis, a discussion of how it intends to finance the project.

28
29 ⁹⁶ This paragraph, Rossi Rejoinder, p. 18, l. 1-8.

⁹⁷ This paragraph, Transcript, p. 150-52.

1 **IV. SUMMARY AND CONCLUSION**

2 Historically, Citizens has relied entirely upon groundwater to serve the
3 needs of its fast-growing Northwest Valley service territory. In 1985, Citizens
4 evaluated whether to supplement these resources by taking a water allocation
5 from the Central Arizona Project. The least risk to Citizens' shareholders would
6 have been to do nothing and continue to rely exclusively upon groundwater, but
7 Citizens determined that the best interests of its customers would be served by
8 contracting for an allocation of CAP water. In 1993, Citizens began making
9 payments to the Central Arizona Water Conservation District to preserve its CAP
10 water allocation. These payments are required for each CAP water subcontractor
11 to allow the State of Arizona to repay the federal government for the pipeline's
12 construction costs.

13 In Citizens' last water rate case, Citizens presented evidence that the
14 decision to contract for CAP water had been prudent and that Citizens should be
15 allowed to begin recovery of these costs. In Decision No. 60172, the Commission
16 made a number of determinations concerning CAP water:

- 17 • Existing customers contribute to the groundwater depletion of the
18 aquifer, land subsidence, and other environmental damage;
- 19 • The consequences of such excessive groundwater withdrawal include
20 decreased water levels, diminished water quality, well failures, increased
21 pumping costs and more land subsidence;
- 22 • Citizens' decision to obtain CAP water was a prudent planning decision;
- 23 • Existing customers will benefit from Citizens' CAP allocation since its use
24 helps to prevent diminished water quality, well failures and additional
25 land subsidence, and it protects customer's economic investment in the
26 area; and
- 27 • Subject only to the condition that Citizens develop a plan and date of
28 implementation by December 31, 2000, Citizens was allowed to defer
29 CAP capital costs for future rate recovery when CAP water is put to

1 beneficial use.

2 Following Decision No. 60172, Citizens reached out to the local
3 communities and facilitated the creation of the CAP Task Force. The Task Force is
4 an independent body, comprised of numerous community representatives. The
5 Task Force met for many months and evaluated how CAP water should be put to
6 use, including whether Citizens should simply relinquish its CAP entitlement.
7 Ultimately, the Task Force issued a report memorializing its conclusions.

8 The Task Force Report noted that the Sun Cities use over half the non-
9 renewable groundwater in the Northwest Valley. Groundwater levels have
10 declined by as much as 300 feet since the early 1900s, and subsidence has
11 become a significant problem in some areas. The Arizona Department of Water
12 Resources expects that problem to get only worse, expecting another 300 foot
13 decline in the water table by the year 2030 if something is not done. The Cities
14 of Glendale and Peoria have taken the first steps to address the area-wide
15 problem by using their CAP water to reduce their dependence on groundwater.
16 The Task Force unanimously concluded that the Sun Cities should do their share
17 and also consume CAP water to reduce dependence upon groundwater.

18 The Task Force endorsed construction of a groundwater savings facility with
19 local golf courses. Citizens would construct a pipeline to deliver CAP water to
20 local golf courses to displace water that had historically been pumped from the
21 ground. This would preserve groundwater for human consumption in the Sun
22 Cities. In the interim, until the new pipeline is built, CAP water would be
23 recharged into the aquifer. In this manner the responsible citizens of the Sun
24 Cities have endorsed a plan that addresses the region-wide water problem and
25 preserves the benefits locally.

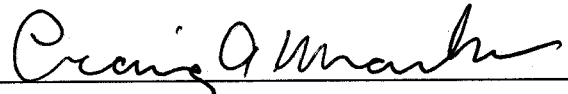
26 Citizens would like to again thank the many residents who committed so
27 much of their time and energy to participate in the Task Force. Citizens learned a
28 valuable lesson from the last rate case: As a steward of the public interest,
29 Citizens has to listen better to its customers. Through the task force, the voices

1 of Citizens' customers have been heard loud and clear. Further, through this
2 collaborative process, we believe a better solution has been reached than would
3 have been the result of Citizens going it alone. Finally, the communities, acting
4 through the Task Force have been environmentally responsible. It would have
5 been easy to defer this problem to future generations, but the communities
6 recognized that they have contributed to the groundwater problems, determined
7 that they would accept responsibility, and have taken the first giant steps toward
8 a long-term solution. The Commission should endorse this far-sighted,
9 innovative, community-based, solution.

10 11 **V. REQUESTED RELIEF**

12 As more fully set forth above, Citizens is asking the Commission to find
13 that, consistent with Decision No. 60172, Citizens has now developed a plan and
14 date to implement CAP water usage in the Sun Cities. Accordingly, Citizens' CAP
15 water investment is now used and useful and Citizens should be allowed to
16 amortize over 42-months the amounts it has previously paid to preserve its CAP
17 water allocation. Consistent with Commission precedent and Staff's testimony in
18 Citizens' last rate case, Citizens is also asking that it be allowed an 8.3% return
19 on the unamortized balance of the deferral. Further, Citizens is asking that the
20 Commission conceptually approve both the Task Force's interim recharge plan
21 and the planned permanent golf course recharge facility. Citizens would develop
22 a detailed preliminary design over the next several months following a final
23 Commission order and submit it to the Commission's Engineering Staff for review
24 and approval. At that time, Citizens would also notify Staff how it intends to
25 finance the golf course recharge facility. Actual recovery of the construction
26 funds would be deferred until a future rate case.

1 RESPECTFULLY SUBMITTED on November 5, 1999.

2
3
4 

5 Craig A. Marks
6 Associate General Counsel
7 Citizens Utilities Company
8 2901 N. Central Avenue, Suite 1660
9 Phoenix, Arizona 85012

10 Original and ten copies filed this
11 November 5, 1999, with:

12 Docket Control
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, Arizona 85007

16 Copies of the foregoing mailed/delivered
17 this November 5, 1999, to:

18 Jerry Rudibaugh
19 Arizona Corporation Commission
20 1200 West Washington
21 Phoenix, Arizona 85007

22 Lyn Farmer
23 Arizona Corporation Commission
24 1200 West Washington
25 Phoenix, Arizona 85007

26 Deborah R. Scott
27 Arizona Corporation Commission
28 1200 West Washington
29 Phoenix, Arizona 85007

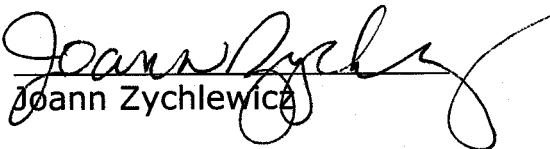
30 Scott Wakefield
31 RUCO
32 2828 North Central Avenue
33 Suite 1200
34 Phoenix, Arizona 85004

Michael A. Curtis
William P. Sullivan
MARTINEZ & CURTIS
2712 N. 7th Street
Phoenix, Arizona 85006

Walter W. Meek
AUIA
2100 North Central Avenue
Suite 210
Phoenix, Arizona 85004

William G. Beyer
Beyer, McMahon & LaRue
10448 W. Coggins, Ste. C
Sun City, Arizona 85351

By:


Joann Zychlewicz

APPENDIX A

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RENZ D. JENNINGS
CHAIRMAN

MARCIA WEEKS
COMMISSIONER

DALE H. MORGAN
COMMISSIONER



JA
EXEC

ARIZONA CORPORATION COMMISSION

November 16, 1989

Lex J. Smith, Esq.
Brown & Bain, P.A.
2901 North Central
20th Floor
Phoenix, AZ 85012

Dear Lex:

Pursuant to our recent telephone conversations, this letter is to confirm that the Commission's previous orders regarding the inapplicability of A.R.S. §40-301 et seq., to securities issuances¹ of foreign public service corporations remain in full force and effect until formally modified or amended according to law.

As you are aware, I am currently involved in a review of those orders as well as the application of A.R.S. §40-285 to foreign public service corporations, A.R.S. §40-301, et seq. notwithstanding. However, pending that review and either formal action by the Commission or a written policy announcement by myself on behalf of the Commission, which would have prospective effect only, the regulation of securities issuances by foreign public service corporations, whether or not the securities involved a mortgage or encumbrance under A.R.S. §40-285, remains unchanged. Therefore, any prior or pending issuances of securities by a foreign public service corporation will not be affected by my review.

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy M. Hogan", followed by a horizontal line.

TIMOTHY M. HOGAN
Chief Counsel

TMH/amt

¹Including issuances of stocks, bonds, notes and other evidences of indebtedness and creation of liens in connection therewith ("securities insuances").